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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 LD, DB, BW, RH, and CJ, on behalf of  
12 themselves and all others similarly situated,

13 Plaintiffs,

14 v.

15 UNITED HEALTHCARE INSURANCE  
16 COMPANY, a Connecticut Corporation,  
17 UNITED BEHAVIORAL HEALTH, a  
18 California Corporation, and MULTIPLAN,  
19 INC., a New York Corporation,

20 Defendants.  
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Case No. 4:20-cv-02254-YGR

**[PROPOSED] ORDER DENYING  
PLAINTIFF'S MOTION FOR SUMMARY  
ADJUDICATION ESTABLISHING THE  
STANDARD OF REVIEW AS *DE NOVO***

1 On October 6, 2021, Plaintiffs LD, DB, BW, RH, and CJ, on behalf of themselves and all others  
2 similarly situated (“Plaintiffs”), filed a Motion for Summary Adjudication to Establish the Standard of  
3 Review as *De Novo*. (Dkt. 98.) This Court, having fully reviewed and considered all papers and  
4 arguments submitted in support of and in opposition to the Motion, finds that Plaintiffs’ motion should  
5 be denied. Summary judgment is proper only when there is “no genuine dispute as to any material  
6 fact” (Fed. R. Civ. P. 56(a)), meaning, “[w]here the record taken as a whole could not lead a rational  
7 trier of fact to find for the nonmoving party.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475  
8 U.S. 574, 587 (1986) (quotations omitted). Here, the undisputed facts show (1) that the Apple and  
9 Tesla plans delegated discretion to UHC, and (2) that the benefits determinations at issue in this case  
10 fell squarely within the scope of UHC’s delegated discretion and authority. Applying well-established  
11 authorities to these undisputed facts, the Court finds that the proper standard of review is abuse of  
12 discretion, not *de novo*. See, e.g., *Abatie v. Alta Health Life Ins. Co.*, 458 F.3d 955, 963 (9th Cir. 2006).

13 For the above reasons, the Court holds that the appropriate standard of review is abuse of  
14 discretion.

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17 **IT IS HEREBY ORDERED** that:

- 18 (1) Plaintiffs’ Motion for Summary Adjudication to Establish Standard of Review as *De*  
19 *Novo* is DENIED; and  
20 (2) The standard of review for the claims in this matter shall be abuse of discretion.

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22 **IT IS SO ORDERED.**

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24 DATE: \_\_\_\_\_

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Judge Yvonne Gonzalez Rogers  
United States District Judge